

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

DAVID S. YARNALL,	)	
	)	
Plaintiff,	)	
	)	CONSOLIDATED
v.	)	Civ. No. 05-527-SLR
	)	Civ. No. 06-501-SLR
CPL. ANTHONY MENDEZ,	)	Civ. No. 06-529-SLR
DELAWARE STATE POLICE	)	
TROOP 7, PTLM LOWE, UNKNOWN	)	
OFFICERS WHO RESPONDED TO	)	
SCENE OF MILLSBORO POLICE, and	)	
PFC BUCHERT,	)	
	)	
Defendants.	)	

**ORDER**

At Wilmington this 10<sup>th</sup> day of September, 2007, consistent with the memorandum opinion issued this same date;

IT IS ORDERED that:

1. Plaintiff's motion for summary judgment (D.I. 74) is **denied**.
2. Plaintiff's motion to amend/correct summary judgment (D.I. 84) is **granted**.
3. The motion for summary judgment of defendants Delaware State Police Troop 7 and Cpl. Anthony Mendez (D.I. 96) is **granted**.
4. The motion for summary judgment of defendants PTLM Lowe and PFC Buchert (D.I. 99) is **granted** in part and **denied** in part as follows:
  - a. Lowe is **denied** summary judgment on the initial use of force (i.e., taser) and **granted** summary judgment on the force used (i.e. taser) when plaintiff ran from police officers;
  - b. Buchert is **granted** summary judgment on the issue of failure to

intervene; and

c. Lowe is **denied** summary judgment on the issue of qualified immunity.

5. At the close of this case the clerk of the court is ordered to enter judgment in favor of Cpl. Anthony Mendez, the Delaware State Police, and PFC Buchert and against plaintiff.

  
United States District Judge